

COUNTY OF SAN LUIS OBISPO

**GROWTH MANAGEMENT
ORDINANCE**

TITLE 26 OF THE SAN LUIS OBISPO COUNTY CODE

TABLE OF CONTENTS

ADOPTED BY
THE SAN LUIS OBISPO COUNTY BOARD OF SUPERVISORS
October 23, 1990 - Ordinance No. 2477

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COUNTY OF SAN LUIS OBISPO

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Department of Planning and Building

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TABLE OF CONTENTS

<u>Sections:</u>	<u>Page:</u>
26.01.010 Title and Purpose	1-1
26.01.020 Maps and Text Included by Reference	1-1
26.01.030 Applicability of the Growth Management Ordinance	1-2
26.01.032 Compliance with the Growth Management Ordinance Required	1-2
26.01.034 Exemptions	1-2
26.01.040 Administration of Growth Management Ordinance	1-3
26.01.050 Rules of Interpretation	1-4
26.01.060 Appeal	1-5
26.01.070 Construction Permit Procedures	1-7
26.01.072 Post-Allocation Procedures	1-13
26.01.080 Time for Judicial Review	1-14
26.01.082 Severability of Provisions	1-14

COUNTY OF SAN LUIS OBISPO
GROWTH MANAGEMENT ORDINANCE

Adopted October 23, 1990, Ordinance 2477

Amended

July 11, 1991	Ordinance No. 2506
October 27, 1992	Ordinance No. 2580
December 5, 1995	Ordinance No. 2743
May 4, 1999	Ordinance No. 2867
December 7, 1999	Ordinance No. 2889
January 18, 2000	Ordinance No. 2895
May 2, 2000	Ordinance No. 2902
June 20, 2000	Ordinance No. 2905
January 16, 2001	Ordinance No. 2932
October 2, 2001	Ordinance No. 2946
December 4, 2001	Ordinance No. 2955
January 8, 2002	Ordinance No. 2957
December 3, 2002	Ordinance No. 2989
June 3, 2003	Ordinance No. 3005
November 25, 2003	Ordinance No. 3017
December 9, 2003	Ordinance No. 3019
June 22, 2004	Ordinance No. 3028
July 13, 2004	Ordinance No. 3029
May 24, 2005	Ordinance No. 3066
May 23, 2006	Ordinance No. 3091

CHAPTER 1: **GROWTH MANAGEMENT ORDINANCE**

26.01.010 - Title and Purpose: This title is known as the Growth Management Ordinance of the County of San Luis Obispo, Title 26 of the San Luis Obispo County Code. These regulations are hereby established and adopted to protect and promote the public health, safety and welfare, and more particularly:

- a. To implement the County General Plan by establishing an annual rate of growth that will give further guidance to the future growth of the county in accordance with that plan; and
- b. To establish an annual rate of growth that is consistent with the ability of community resources to support the growth, as established by the Resource Management System (RMS) of the County General Plan; and
- c. To establish a system for allocating the number of residential construction permits to be allowed each year by the annual growth rate set by the county Board of Supervisors; and
- d. To minimize adverse effects on the public resulting from a rate of growth which will adversely affect the resources necessary to support existing and proposed new development as envisioned by the County General Plan; and
- e. To assist the public in identifying and understanding the growth management regulations affecting the development and use of land in San Luis Obispo County.

26.01.020 - Maps and Text Included by Reference: In order to effectively implement the provisions of this title, the following documents, including maps and text, are hereby adopted and included by reference as part of this title, as though they are fully set forth herein:

- a. San Luis Obispo County General Plan, including all elements thereof and all amendments thereto, as adopted by the Board of Supervisors pursuant to Sections 65000 et seq. of the Government Code.
- b. Building and Construction Ordinance, Title 19 of the County Code.
- c. Land Use Ordinance, Title 22 of the County Code.
- d. Coastal Zone Land Use Ordinance, Title 23 of the County Code.
- e. The Woodlands Specific Plan.

[Amended 2002, Ord. 2957]

26.01.030 - 034

26.01.030 - Applicability of the Growth Management Ordinance. The provisions of this title apply to the issuance of all construction permits for dwelling units within the unincorporated areas of San Luis Obispo County, as follows:

- a. **Proposed dwelling units.** The provisions of the title apply to all dwelling units proposed to be constructed after the adoption of this title unless specifically exempted by this title. It shall be unlawful and a violation of this code for any person to construct a dwelling unit (including the placement of a mobilehome on an individual parcel, placement of a mobilehome within a mobilehome park, or the conversion of a non-residential structure to a dwelling unit) contrary to or without satisfying all applicable provisions of this title.
- b. **Completion of existing projects.** Nothing in the title shall require any change in the plans, construction or approved use of a dwelling unit for which a permit has been issued before the effective date of this title, provided construction is commenced and completed in accordance with the provisions of the county code, including but not limited to: Title 19, Building and Construction Ordinance; Title 22, Land Use Ordinance; and Title 23, Coastal Zone Land Use Ordinance.

[Amended 1995, Ord. No. 2743]

26.01.032 - Compliance with the Growth Management Ordinance Required: No application to construct a new dwelling unit shall be accepted for processing or approved, unless the proposed new dwelling unit is determined to be in compliance with the provisions of this title and other applicable provisions of the County Code.

26.01.034 - Exemptions. The provisions of the title do not apply to any of the following:

- a. Proposed new dwelling units constructed as secondary dwellings in conformance with the requirements of the Land Use Ordinance and Coastal Zone Land Use Ordinance, Title 22 and 23 of the County Code, respectively.
- b. Proposed new dwelling units which will be affordable housing for persons and families of low or moderate income as defined by California Health and Safety Code Section 50093, with long-term affordability guaranteed for a period of 30 years as provided by Section 22.12.070 of the Land Use Ordinance and Section 23.04.094 of the Coastal Zone Land Use Ordinance.
- c. Building permit applications for new dwelling units using the rights conferred by a vesting tentative map as provided by Government Code sections 66498.1 et seq. where the vesting tentative map application was filed with the Planning and Building Department on or before July 10, 1990, except where such applications are denied pursuant to any of the provisions of California Government Code section 66498.1.

- d. Building permit applications for new dwelling units using the rights conferred by a vesting tentative map as provided by Government Code sections 66498.1 et seq. where the vesting tentative map application was filed with the Planning and Building Department on or before July 10, 1990 and was withdrawn and simultaneously resubmitted one time after July 10, 1990, except where such applications are denied pursuant to any of the provisions of Government Code section 66498.1.
- e. Construction permit applications for farm support quarters and labor camps that house agricultural employees, on properties outside of village and urban reserve lines as defined in the county general plan, when authorized as farm support quarters under Land Use Ordinance Section 22.30.480b and c or Coastal Zone Land Use Ordinance Sections 23.08.167c and e and in accordance with the requirements of Health and Safety Code Section 17008.
- f. Proposed new dwelling units to be located in the Nipomo Mesa area (as depicted in Figure 1) for which a Request for Allocation was filed with and accepted by the Department of Planning and Building between November 14, 1999 and April 4, 2000, as shown on the list entitled "Pipeline Projects for the Nipomo Mesa Area" and on file with the Department of Planning and Building.
- g. Building permit applications for up to forty-six (46) new residential dwellings within the boundaries of the Avila Beach Specific Plan.

[Amended 1991, Ord. No. 2506; 1992, Ord. No. 2580; 1995, Ord. No. 2743; 1999, Ord. No. 2867; 2000, Ord.. No. 2902; 2000, Ord. No.. 2905; 2001, Ord. No. 2946; 2003, Ord. No. 3005; 2006, Ord. No. 3091]

26.01.040 - Administration of the Growth Management Ordinance. This title shall be administered by the Director of Planning and Building, who will establish specific procedures, consistent with the intent of this Title, and advise the public about its requirements. The responsibilities of the Planning Director under this title include the following functions, which may be carried out by Planning Department employees under the supervision of the director:

- a. **Application processing.** Receive and review all applications for projects; certify that applications submitted have been properly completed; establish permanent files; conduct site project analyses; meet with applicants; collect fees; prepare reports; process appeals; present staff reports to the Planning Commission and Board of Supervisors where applicable; and
- b. **Permit issuance.** Issue dwelling unit permits under this title and certify that all such permits are in full conformance with its requirements; and
- c. **Coordination.** Refer and coordinate matters related to the administration of this title with other agencies and county departments; and
- d. **Amendment.** Request that the Board of Supervisors initiate amendment of this title pursuant to Land Use Ordinance Section 22.01.050 and Coastal Zone Land Use Ordinance Section 23.01.050, when such amendment would better implement the policies of the General Plan and increase its effectiveness and/or improve or clarify the procedures or content of this title.

[Amended 2003, Ord. No. 3005]

26.01.050

26.01.050 - Rules of Interpretation. Any questions about the interpretation or applicability of any provision of this title, are to be resolved as provided by this section.

a. Effect of provisions:

- (1) Minimum requirements:** The regulations set forth in this title are to be considered minimum requirements, which are binding upon all persons and bodies charged with administering or enforcing this title.
- (2) Effect upon private agreements:** It is not intended that these regulations are to interfere with or annul any covenants or other agreements between parties. When these regulations impose a greater restriction upon the issuance of construction permits for new dwelling units than are imposed or required by other ordinances, rules, regulations or by covenants, or by covenants or agreements, these regulations shall control.

b. Definitions: Definitions of the specialized terms and phrases used in this title are contained in certain other sections of this title where the terms and phrases are actually used, or in the documents comprising the County General Plan, or in Titles 19, 22 or 23 of the County Code. For purposes of this title, the following definitions shall also apply:

- (1) Allocation:** The right, granted by the Board of Supervisors, to make application for construction of a new dwelling unit (including the placement of a mobilehome or the conversion of a non-residential structure to a dwelling unit) in the unincorporated area of San Luis Obispo County. An allocation is not a guarantee of receiving approval for the requested dwelling unit. The actual number of dwelling units to be allowed shall be determined by the Board through an annual allocation process. Allocations apply only to requests filed prior to July 1, 2003, and to those parcels that have vested rights to use the allocation process. For those who have rights to use the Allocation process, the filing of the construction permit may occur prior to completion of any discretionary permits in order to satisfy the timeframes required to reserve the allocation.
- (2) Allotment:** The right, granted by the Board of Supervisors, to make an allotment based upon a complete application for construction permit. An allotment does not guarantee approval and issuance of a construction permit.
- (3) Construction of this title:** When used in this title, the words "shall," "will," and "is to" are always mandatory and not discretionary. The words "should" or "may" are permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural, and the plural the singular.
- (4) Maximum Annual Allocation:** The Maximum Annual allotment (includes both allocation and allotment requests) equals the annual number of construction permits that may be issued for new dwelling units per year in the unincorporated area of the county. The actual number of dwelling units to be allowed shall be determined by the Board through an annual allotment process.

- (5) **New Dwelling Unit:** The construction of a new structure to be used as a dwelling unit, including placement of a mobilehome on an individual parcel, placement of a mobilehome within a mobilehome park, or conversion of a non-residential structure to a residential use. For the purposes of this ordinance, "new dwelling unit" does not include the replacement of any existing, lawfully established dwelling unit with another unit on the same site, or the remodeling or enlargement of an existing unit, provided that the number of existing units is not increased.
- (6) **Number of days:** Whenever a number of days is specified in this title, or in any Request for Allocation, or in any permit, condition, or notice issued or given as set forth in this title, such number of days shall be deemed to be consecutive calendar days, unless the number of days is specifically identified as business days. Whenever the term "week" is used, it shall mean the days from Sunday to the following Saturday, inclusive.
- (7) **Planned Development:** A project based on a comprehensive, unified site design that will include a phasing schedule specifying the time period over which the project will be built and the number of dwelling units to be built in each phase, and meeting the following criteria: each phase will provide the necessary services and infrastructure so as to be both self-supporting as well as integrated into the whole project, including specifying the standards for land use and related improvements (i.e. streets, utilities, public and private open space, buffers, etc.) plus responsibilities for their installation, ownership and maintenance; the overall project is characterized by creative and innovative design features and a variety of housing types. Such projects are to be approved as mixed use or cluster divisions within urban or village reserve lines under the provisions of Titles 22 or 23 of the County Code, approved through a Development Plan or Conditional Use Permit, approved through a Specific Plan adopted by the County in accordance with the California Government Code, or covered by a development agreement approved by the Board of Supervisors.
- (8) **Specific Plan:** A plan adopted by the County for the systematic implementation of the County General Plan in accordance with section 65451 of the California Government Code.

[Amended 1995, Ord. No. 2743; 2003, Ord. No. 3005; 2003, Ord No. 3019; 2006, Ord No. 3091]

26.01.060 - Appeal. Any person aggrieved by a decision of the Director of Planning and Building involving the interpretation or application of this title may appeal any such decision as follows:

a. Processing of appeals:

- (1) **Timing and form of appeal:** An appeal shall be filed within 14 days of the decision that is the subject of the appeal. The appeal shall be in writing and shall be filed with the Planning Commission Secretary using the forms provided by the Department. The written appeal must state the factual and legal basis by which the appellant contends that he or she is entitled to have the decision of the Director overturned.

- (2) **Filing fee and cost recovery:** The appeal shall be accompanied by an appeal fee in the amount of \$500, representing a deposit to be used to reimburse the County for the actual costs and expenses incurred by the County in processing, investigating, and deciding said appeal. The appellant shall execute a cost accounting agreement with the county pursuant to the County's fee ordinance to reimburse the county for the actual recorded costs, plus overhead, incurred by the county in processing the appeal.
 - (3) **Report and hearing:** When an appeal has been filed, the Director shall prepare a report on the matter, and cause the appeal to be scheduled for consideration by the Planning Commission at its next available meeting after completion of the report.
 - (4) **Action and findings:** After holding a public hearing on the matter pursuant to subsection b of this section, the Planning Commission may affirm, affirm in part, or reverse the action, decision or determination that is the subject of the appeal, based upon findings of fact regarding the particular case. Such findings shall identify the reasons for the action on the appeal, and verify the compliance or non-compliance of the subject of the appeal with the provisions of this title.
 - (5) **Withdrawal of appeal:** After an appeal to a decision regarding the interpretation or application of this title has been filed, the appeal shall not be withdrawn except with the consent of the Planning Commission.
- b. **Public hearing notice:** When a public hearing is to be held pursuant to this title, notice of the public hearing shall be provided as required by Government Code Sections 65091 et seq. and by any additional means the Director of Planning and Building deems appropriate.
- c. **Appeal jurisdiction:** All appeals shall be heard by the Planning Commission. The following actions of the Department of Planning and Building pertaining to the interpretation or application of this title may be appealed to the Planning Commission:
 - (1) Determinations on the meaning or applicability of the provisions of this title which are believed to be in error, and cannot be resolved with staff;
 - (2) Any determination that information submitted with any application or request required by this title is incomplete;
 - (3) Any decision of the Department to approve or deny any application or request required by this title;
 - (4) Any decision by the Director of Planning and Building to revoke or cancel any application or request approved pursuant to this title.
- d. **Matters excluded from appeal:** Specifically excluded from appeal are matters which for their resolution require the amendment or change of this title, or other county ordinances or resolutions.

- e. **Planning Commission decisions:** All decisions of the Planning Commission on appeals filed pursuant to this title are final.

26.01.070 - Construction Permit Procedures: This section describes general procedures for determining the number of dwelling unit construction permit applications processed by the Department of Planning and Building, how the annual allotment is to be conducted, what information must be included with an application submitted for processing under the provisions of this title, and the time limits for processing applications for new dwelling units to be permitted under this title.

- a. **Maximum number of new dwelling units allowed:** The Maximum Annual Allotment shall be limited to an amount sufficient to accommodate an annual increase of 2.3% in the number of dwelling units, unless otherwise specified below. The number of new dwelling units to be allowed shall be based on the number of existing county unincorporated housing units, as defined by the most recent estimate provided by the state Department of Finance.

- (1) **Maximum number of new dwelling units allowed in the Nipomo Mesa area.** The maximum number of new dwelling units allowed in the Nipomo Mesa area (see Figure 1) for the period of July 1, 2006 through June 30, 2007, shall not exceed a 1.8 percent annual increase in the number of existing dwelling units in 2005, resulting in the potential for a Maximum Annual Allocation of 127 new residences in the Nipomo Mesa area for the period from July 1, 2006 through June 30, 2007. In addition to the 1.8 percent annual allotment, up to 35 additional units shall be made available from previous years' unused allotments in the Nipomo Mesa area for the period from July 1, 2006 to June 30, 2007 to multi-family/planned development projects on the waiting list located within urban or village reserve lines that have received intent-to-serve letters from the applicable water district and are either:

- (a) Projects that are located within and meet the standards of the Olde Towne Nipomo Design and Circulation Plan and are Smart Growth, Senior Housing, Mixed Use, Green Build (equivalent to LEED certified); or
- (b) Projects that will result in the completion of construction of sections of road improvements identified on the South County Circulation Study Road Improvement list or will result in construction of road improvements where such construction will materially improve traffic and circulation on existing or proposed roads.

[Amended 2000, Ord. No. 2895; 2001, Ord. No. 2932; 2001, Ord. No. 2955; 2002 Ord. No. 2989; 2003, Ord. No. 3005; 2003, Ord. No. 3019; 2004, Ord. No. 3028; 2004, Ord. No. 3029; 2005, Ord. No. 3066; 2006, Ord. No. 3091.]

- (2) **Maximum number and timing of new dwelling units allowed within The Woodlands Specific Plan Area.** Notwithstanding any other provisions of this title, Allocations may be issued for the Woodlands Specific Plan Area (see Figure 1) as follows:

- (a) In accordance with the adopted Woodlands Specific Plan phasing plan (four phases identified as 1A, 1B, 2A and 2B on the phasing plan map, Table 8 and accompanying text), Allocations can be obtained for up to 825 new dwelling units, at the rate of 165 units per year on a cumulative basis, in Phases 1A and 1B during the first five (5) years following approval of the first Development Plan for Phases 1A and 1B.
- (b) Beginning in year six (6), Allocations for each subsequent phase (Phases 2A and 2B) can be obtained sequentially, at the rate of 99 units per year on a cumulative basis, upon final inspection of at least 60% of the residences for which building permits have been issued and upon completion of primary infrastructure and related mitigation measures of the previous phase(s) as identified in the Woodlands Specific Plan.
- (c) Allocations issued to The Woodlands Specific Plan Area are non-transferable and terminate only at issuance of building permits.
- (d) The maximum number of all dwelling units for The Woodlands Specific Plan Area shall be 1,320.

[Amended 2002, Ord. No. 2957]

- b. **Annual review of growth management program.** In the fourth quarter of the calendar year, the Board of Supervisors shall hold a public hearing to consider the annual summary report of the Resource Management System (RMS) as described in Framework for Planning of the general plan. In the second quarter of the calendar year, the Board shall evaluate the proposed growth rate for the ensuing fiscal year in light of the availability of resources and services necessary to accommodate new development and may initiate proceedings to amend this title to modify the annual growth rate based on the evaluation of the RMS data.
- c. **Distribution of annual allotments.** After the allowed number of new dwelling units is determined by the Board of Supervisors through the process described in subsections a and b of this section, the allotment shall be distributed countywide, based on the availability of resources needed to support the new development as defined by the RMS.
 - (1) **Diversity of dwelling unit types.** In order to allow opportunities or development of individual dwelling units and larger residential projects and to encourage a variety of dwelling unit types, the Maximum Annual Allotment of new dwelling units will be distributed as follows:
 - (a) **Category 1:** Thirty-five (35) percent of the Maximum Annual Allotment shall be reserved for developers or multi-family dwellings and dwelling units in phased projects approved as Planned Developments or through adoption of a Specific Plan. No single applicant shall be eligible in any one year for more than five (5) percent of the Maximum Annual Allotment. Dwelling units to be developed in such projects may be carried over for one year upon written request of the

applicant within the 180 days specified in subsection "g" of this section. If there are not enough applications for dwelling units to use up the 35% reservation in this category, those unused allotments shall be made available in Category 2.

[Amended 1995, Ord. No. 2743; 2006, Ord. No. 3091]

- (b) **Category 2:** The remaining Sixty-five (65) percent of the Maximum Annual Allotment shall be available for all other applicants for new dwelling units. However, no single applicant shall receive more than five (5) percent of the annual allocations and/or allotments. If there are not enough applications for dwelling units in Category 2 in the fiscal year allotment, those unused allotments shall be available for use in Category 1.

[Amended 2003, Ord. No. 3005; 2006, Ord. No. 3091]

- d. **Filing of Requests for Allotment.** Applicants interested in building new dwelling units will file a Request for Allotment with the Department of Planning and building on a form provided by the department to allow the department to track the category of allotment. A complete application for the construction permits and full building plans are required at this time in addition to having completed any required discretionary permit review. If the application is determined to be incomplete by the Department of Planning and Building, the construction permit application will be rejected and no selection under the Growth Management ordinance will be made.

[Amended 1999, Ord. No. 2867; 2000, Ord. No. 2905; 2003, Ord. No. 3005; 2006, Ord. No. 3091]

- e. **Filing of Requests for Allocation.** Applicants eligible to file a Request for Allocation are allowed an exception to the requirement that a complete application be submitted as follows:
- (1) For a vested map that was filed and accepted for processing prior to May 20, 2003, can a Request for Allocation can be selected for submittal as provided in the ordinance that was in place at the time of acceptance of the vesting map for processing.
 - (2) For parcels located within communities with waiting lists as provided in sections h and i, or for any area where a waiting list of more than 18 months exists.

Complete construction applications are not required at this time. The Request for Allocation will be accepted only from the owner of the parcel proposed for development, or an agent acting with the written authorization of the owner. The Department will accept Requests for Allocations at any time and they will be processed on a first-come-first-served basis for as long as the vested status period of the map. Once the allocation can be selected, the applicant will have 120 days to submit a complete application, except as provided in subsection "g" of this section. In any year where all allotments have been issued, Requests for Allocation will continue to be accepted and placed on a waiting list in the order in which they are filed.

[Amended 2006, Ord. No. 3091]

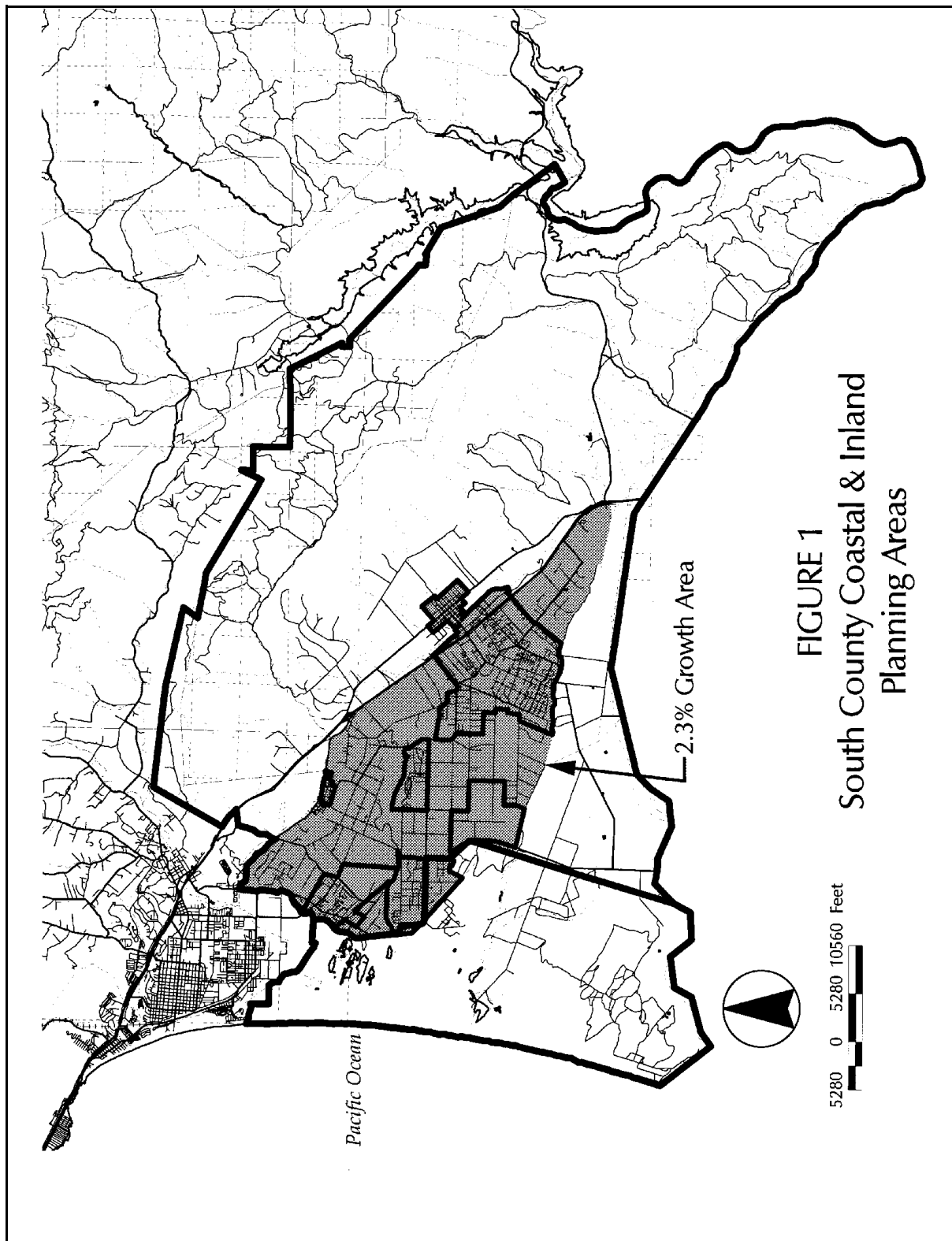


Figure 1: South County Coastal & Inland Planning Areas - Amend. 1/18/2000, Ord. No. 2895; 1/8/02, Ord. No.2957

- f. **Limit on number of allotment and allocation requests:** A total of two requests for Allocation or Allotment will be accepted for any single legally-created parcel per year. An applicant may file a request for Allocations or Allotments for a maximum number of dwelling units not to exceed the following percentages of the total annual allocation/allotment for the respective areas:
- (1) 5% in the countywide area,
 - (2) 10% in the Nipomo Mesa Area, or
 - (3) 20% of the total annual allotment in the Nipomo Mesa Area for multi-family/planned development projects that have received intent to serve letters from the applicable water district and meet any one of the following:
 - (i) Projects that are Smart Growth, Senior Housing, Mixed Use, Green Build (equivalent to LEED certified) and are located within, and meet the standards of the Olde Towne Nipomo Design and Circulation Plan; or
 - (ii) Projects that guarantee long term affordability for at least 35% of the units in accordance with County Ordinance; or
 - (iii) Projects that will result in the completion of construction of sections of road improvements identified on the South County Circulation Study Road Improvement list or will result in construction of road improvements where such construction will materially improve traffic and circulation on existing or proposed roads.

[Amended 2004, Ord. No. 3029; 2006, Ord. No. 3091]

- g. **Authorization to file construction permit applications.** The Department of Planning and Building will accept complete applications for Construction Permits and make a Growth Management Allotment on a first-come-first-served basis. For projects that qualify to use the Request for Allocation process, a Growth Management Allotment will be made at the time of submittal and they will be allowed 120 days to submit a complete application from the time of selection.. The method of allocation will be for the Department to issue a letter of authorization to file a construction permit application for a new dwelling unit in accordance with Titles 19, 22, and 23 of the County Code. Notification of authorization will be issued until the Maximum Annual Allotment has been reached for the current fiscal year. The application of a construction permit must be filed with the Department within 120 days of the date on the letter of authorization in order to retain the allocation allotment. The prescribed time limits for filing an application for a construction permit shall apply to all Requests for Allocations filed with the Department on or after May 2, 2000, except that any applicant who has been issued a letter of authorization prior to the effective date of this ordinance provision on July 20, 2000, shall have 180 days from the date of the authorization letter to submit a construction permit application, with an additional 90 days available upon submittal of a written request for the Director of Planning and Building as described above.

[Amended 1995, Ord. No. 2743; 2000, Ord. No. 2905; 2003, Ord. No. 3005]

h. Communities with existing waiting lists. The following communities have waiting lists for development. Those waiting lists are administered by the specified community service provider(s) and the issuance of Allocations by the County shall be in accordance with the provisions of the local waiting lists, as specified below.

(1) Cambria. The Cambria Community Services District (CCSD) has an existing waiting list for water service permits. The CCSD is allocating resources in compliance with its own resource management policies and ordinances, so as to be compatible with the Resource Management System of the County General Plan and to carry out the county's purposes, goals and objectives. In recognition of the management policies in place, the allocation of dwelling units in Cambria shall be conducted as follows:

(a) Allocation limit. The annual number of new dwelling units to be allocated shall not exceed 2.3% of the total number of dwelling units within the community services district boundary within the Urban Reserve Line as designated in the County General Plan. The dwelling units to be allocated shall be taken from those applicants next in line on the community waiting list. The number of allocated units may be reduced if the resources are not available to support the maximum number of potential allocations, as described below. Any dwelling unit allocations not utilized by Cambria shall become available for countywide allocation in accordance with the provisions of this title. However, the annual allocation for Cambria shall be placed on a deferred list to be available at the time that the water emergency is resolved at which time the Cambria Community Services District (CSD) may issue Intent to Serve letters for all or a portion of the deferred allocations. The Intent to Serve letter can be applied toward the deferred allocations on a first-come, first-serve basis. All deferred allocations will be retained on the waiting list through June 30, 2007, at which time all unused allocations will be considered expired.

(i) Allocation for the years July 1, 2006 through June 30, 2009. Based on the County 2005 Resource Management System (RMS) Annual Report approved by the Board of Supervisors on December 20, 2005, the Maximum Annual Allocation shall be set at 0% per fiscal year for the period from July 1, 2006 through June 30, 2009, resulting in no new allocation or allotment requests other than those accompanied by an intent-to-serve letter from the Cambria Community Services District for transferred meters and 8 grandfathered Allocations for new residences in Cambria each fiscal year in the period from July 1, 2006 through June 30, 2009.

[Amended 2001, Ord. No. 2932; 2001, Ord. No. 2955; 2002, Ord. No. 2989; 2003, Ord. No. 3005; 2003, Ord. No. 3019; 2004, Ord. 3028; 2004, Ord. 3029; 2006, Ord. No. 3091]

- (ii) **"Grandfathered" units in Cambria.** Of the total number of dwelling units to be allowed in Cambria each year, the Cambria Community Services District shall reserve eight (8) allocations for parcels certified by the district as having "grandfathered" right to water service and "will serve" letters will be issued to such applicants on a first-come-first-served basis. These grandfathered units shall be allocated as follows: four (4) units for Tract 1804 and four (4) for the remaining units on the grandfather list. This increase shall be re-evaluated once the Cambria Community Services District has lifted the current moratorium on development that is not considered as grandfathered or active meter status.

[Amended 2003, Ord No. 3019].

- (iii) **Transfer of allocations in Cambria.** Residential allocations may be transferred within the CCSD as long as any such transfer conforms with District Ordinance 1-93, as may be amended from time to time by the District relating to retirement of development rights.

[Amended 2000, Ord No. 2895]

- (b) **Freezing of existing waiting lists.** In order to eventually eliminate the need for an individual community waiting list for services, the CCSD list that exists as of December 31, 1990, shall be frozen for purposes of administering this title. The County shall obtain a certified copy of the waiting list and all future allocations within the community shall come from the certified list. Any applicant wishing to apply for a dwelling unit allocation that is not on the certified list shall apply to the county for placement on the county's waiting list for Requests for Allocation. At the point in the future when the existing community waiting list is exhausted, all future requests for new dwelling units shall be added to the county's waiting list on a first-come-first-served basis and all allocations for new dwelling units in the unincorporated county shall be made from the county waiting list.

- i. **Los Osos prohibitions area.** A portion of the unincorporated community of Los Osos is presently unable to have construction permits issued for new dwelling units because of a sewage disposal prohibition imposed by the California Regional Water Quality Control Board, Central Coast Region. On September 8, 1999, the Regional Board adopted criteria by which exemptions to the prohibition might be granted within the Bayview Heights and Martin Tract areas of Los Osos, a copy of which is on file with the Director of the Department of Planning and Building.

In the areas where the development prohibition is imposed, a Request for Allocation may be filed and land use permits and construction permits for new dwelling units may be processed as specified below.

26.01.070-072

- (1) **Notice of Authorization to file construction permit applications to persons on existing waiting list.** Those persons who have filed Requests for Allocation and are on the existing waiting list for Los Osos will be notified that they can proceed to file construction permit applications, and accompanying land use permit applications where necessary, in accordance with the time frames specified in Section 26.01.070e.
 - (a) **Request to defer filing of application.** Those persons receiving the notice described in paragraph (1) above may notify the Department within the time frames specified in Section 26.01.07e that they do not wish to proceed at this time and request that their Allocation be deferred until a future date.
 - (b) **Activation of deferred allocations.** The applicant may notify the Department at some future date that they wish to proceed with the filing of a development application. As long as there are unused allocations within the current Maximum Annual Allocation established by the Board of Supervisors, the Department will issue a letter of authorization to proceed in accordance with the Section 26.01.070e.
 - (c) **Expiration of deferred allocations.** All deferred allocations will be retained on the waiting list for Los Osos through June 30, 2009, at which time all unused allocations will be considered expired.

[Amended 2003, Ord. No. 3017]

- (2) **Processing of applications.** The Department will process all applications for land use and construction permits; however, no permits will be issued until the applicant provides verification to the Department that an exemption to the areawide prohibition has been granted by the Regional Water Quality Control Board in accordance with the criteria adopted by the California Regional Water Quality Control Board, Central Coast Region, on September 8, 1999, or as subsequently amended.
- (3) **New requests for allocation within the prohibitions area.** All Requests for Allocation will be accepted in accordance with Section 26.01.070d and e above and added to the county-wide list of Requests for Allocation.

[Amended 1991, Ord. No. 2506; 1995, Ord. No. 2743; 1999, Ord. No. 2889; 2000, Ord. No. 2905]

26.01.072 - Post-allocation Procedures. Following the determination by the Board of Supervisors of the Maximum Annual Allocation, those allocations shall be subject to the following:

- a. **Transfer of allocations.** Dwelling units will be allocated through the process described in sections 26.01.070 of this title to specific parcels, except that allocations may be transferred within the Cambria Community Services District as described in section 26.01.070h(1)(a)(iii), or on other properties in the unincorporated county where approved as part of a county Transfer of Development Credits (TDC) program.

[Amended 1995, Ord. No. 2743; 2000, Ord. No. 2905; 2006, Ord. No. 3091]

- b. Expiration of allocations.** After receiving a dwelling unit allocation as provided by this title, the applicant must file a complete construction permit application along with any required land use permit application within the number of days of the date of notice of an allocation as provided in section 26.01.070g, plus any requested time extension for such filing.

[Amended 1995, Ord. No. 2743; 2006, Ord. No. 3091]

Once a construction permit application has been accepted for processing, the normal time limits affecting the expiration of plan review and issued building permits will apply as set forth in the Building and Construction Ordinance, Title 19 of the county code. If plan review expires because the applicant has not pursued permit issuance or an issued permit expires because work is not started within the time limits prescribed by Title 19, or if substantial site work has not been completed as set forth in Titles 22 and 23 of the County Code, the dwelling unit allocation will also expire.

- c. Carryover of individual annual allocations.** The only exceptions to the expiration rules specified in subsection b of this section will be for properties for which multi-family units or units in Planned Developments are proposed in compliance with section 26.01.070c(1)(a).
- d. Carryover of unused Maximum Annual Allocation.** If all the units allocated countywide are not requested in the year in which they are allocated, the unused allocations may be carried over to the following allocation year at the discretion of the Board of Supervisors in a number not to exceed ten (10) percent of the Maximum Annual Allocation of that year. Such a determination is to be made at the time the Board establishes the next Maximum Annual Allocation as specified in this title.

[Amended 1995, Ord. No. 2743; Amended 1991, Ord. 2506]

- e. Reallocation of expired units.** Where any applicant withdraws his application, or where such application has been deemed expired pursuant to the provisions of this title, that unused allocation shall become available for use within the current Maximum Annual Allocation as if it were a new Request for Allocation, subject to all provisions of this title. Where the allocation is located within a community subject to a waiting list as described in Section 26.01.070h, the allocation shall be made available within that community subject to the ordinance or administrative procedures adopted by the service provider within that community.

[Amended 1995, Ord. No. 2743; 2006, Ord. No. 3091]

26.01.080 - Time for Judicial Review: Any court action or proceeding to attack, review, set aside, void, or annul any decision pursuant to this title, or concerning any of the proceedings, acts or determinations taken, done, or made prior to any such decision, shall not be maintained by any person unless such action or proceeding is commenced within 90 days and service is made within 120 days after the date of the decision. Thereafter, all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such decisions, proceedings, acts or determinations.

26.01.082

26.01.082 - Severability of Provisions. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or the constitutionality of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.